

REMARKS

According to the Advisory Action Before the Filing of an Appeal Brief, Applicants' Reply filed January 6, 2006, fails to place this application in condition for allowance. The following issues were noted in the Advisory Action:

--- 2. Notice of Appeal -- It was noted that the Notice of Appeal was filed on January 6, 2006.

--- 5. Amendments -- It was noted that Applicant's reply has overcome certain rejection(s) and, according to the Continuation Sheet, the obviousness-type double patenting rejection of claims 1, 3-9, 12-16, 34-35, 37 and 42 over the U.S. Patents 6,376,464 and 6,518,412 has been overcome. It was noted that for purposes of appeal, the proposed amendment(s) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. It was noted that the status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1, 3-9, 12-17, 29, 34, 35, 37 and 42.

Claim(s) withdrawn from consideration: none.

---11. Request for Reconsideration/Other -- It was noted that the request for reconsideration has been considered but does NOT place the application in condition for allowance because, according to the Continuation Sheet: Applicants response state that a terminal disclaimer to overcome the obviousness-type double (ODP) patenting rejection over U.S. Patent 6,844,327 has been filed. However, as stated in the Continuation Sheet, the terminal disclaimer is not found in the instant application, and the rejection of record over U.S. Patent 6,844,327 has been maintained for the reasons of record.

Also, according to the Continuation Sheet: Applicants argued regarding the provisional ODP rejections of record, and requested this rejection be withdrawn and the present application be permitted to issue as a patent, since 10/802,080 and 10/099,574 are still pending. The Continuation Sheet states that Applicants arguments are not persuasive, since the application 10/099,574 is already allowed and no terminal disclaimer over the present application is found in 10/099,574. And, according to the Continuation Sheet, the ODP rejection over 10/802,080 is maintained since either of the application is in condition for allowance.

U.S. Pat. No. 6,844,327

In response, Applicants would note that in the Reply and Amendment After Final Rejection (37 C.F.R. §1.116), submitted on January 6, 2006, a Terminal Disclaimer for U.S. Patent 6,844,327 was included. A second copy of this Reply, including this Terminal Disclaimer, is attached. Therefore, Applicants respectfully request that this rejection of the claims be withdrawn.

U.S. Application No. 10/099,574

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37 and 42 of the present application were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-55 (particularly claims 1-18 and 28-42) of co-pending application 10/099,574 in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12:886-894.

In response, Applicants had requested that this rejection be withdrawn and the present application be permitted to issue as a patent, since the 10/099,574 application is still pending and these provisional double patent rejections (this one and the following one over the 10/802,880 application) are the only two rejections remaining in this application.

As noted above, in the Continuation Sheet, the Examiner noted Applicants arguments are not persuasive, since the application 10/099,574 is already allowed, and no terminal disclaimer over the present application is found in 10/099,574.

Applicants would note that the present application and the 10/099,574 application were filed on the same day. Without acquiescing with the propriety of this rejection and in order to expedite prosecution of the present application, Applicants respectfully request that this rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

U.S. Application No. 10/802,080

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37, 42 and 57 of the present application were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-36 (particularly claims 1-19 and 29-43) of co-pending application 10/802,080 in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12:886-894.

In response, Applicants had requested that this rejection be withdrawn and the present application be permitted to issue as a patent, since the 10/802,080 application is still pending and these provisional double patent rejections (this one and the one over the 10/099,574 application) are the only two rejections remaining in this application.

As noted above, in the Continuation Sheet, the Examiner noted Applicants arguments are not persuasive, and the ODP rejection over 10/802,080 is maintained since either of the

application is in condition for allowance. Applicants would note that the 10/802,080 application is still pending and has been finally rejected.

Pursuant to MPEP 804(I)(B) and MPEP 1490(V)(D), if the obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications (but the later-filed application is rejectable on other grounds), the examiner should then withdrawn that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

The present application 10/099,836, filed March 15, 2002, is the earlier filed of the two pending applications; and the 10/802,808 application, filed March 15, 2004, is the later-filed application, which is rejectable on other grounds. The 10/802,080 application has been finally rejected and the provisional obviousness-type double patenting rejection over the present application has been maintained.

Therefore, Applicants would respectfully request that this rejection in the present application be withdrawn, since it is the only rejection remaining; and the present application be permitted to issue as a patent.

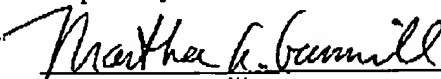
CONCLUSION

With the above amendments and remarks, Applicants believe that the present application is in condition for allowance. Applicants respectfully request reconsideration of this application and its early allowance. Applicants would request that the Examiner contact Applicants' representative (phone number below), if the Examiner would like to discuss any of the above. We understand that Examiner Shibuya at phone number (571) 272-0806, now has responsibility for this case.

The Commissioner is hereby authorized to charge any required fee(s) to Deposit Account No. 23-0455 (referencing Attorney Docket No. 9196-022-999 (PC20700H)).

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Respectfully submitted,


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